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Right of peoples to self-determination

Report of the Third Committee

Rapporteur: Mr. Naif Bin Bandar **Al-Sudairy** (Saudi Arabia)

I. Introduction

1. At its 3rd plenary meeting, on 17 September 1999, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-fourth session the item entitled "Right of peoples to self-determination" and to allocate it to the Third Committee.

2. The Third Committee held a substantive debate on the item jointly with item 114, entitled "Elimination of racism and racial discrimination", at its 19th to 22nd meetings, on 21, 22 and 25 October 1999, and took action on item 115 at its 24th, 26th, 28th, 29th, 33rd and 48th meetings, on 27 and 28 October and 1, 2, 4 and 16 November 1999. An account of the Committee's discussion of the item is contained in the relevant summary records (A/C.3/54/SR.19-22, 24, 26, 28, 29, 33 and 48).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General (A/54/327);

(b) Note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/54/326);

(c) Letter dated 17 May 1999 from the Permanent Representative of Bangladesh to the United Nations addressed to the Secretary-General, transmitting the Hague Agenda for Peace and Justice for the Twenty-first Century, adopted by the Appeal for Peace Conference, held at The Hague from 12 to 15 May 1999 (A/54/98);

(d) Letter dated 27 May 1999 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General (A/54/118-S/1999/633);

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(e) Letter dated 15 October 1999 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General, transmitting the communiqué of the meeting of Ministers for Foreign Affairs and Heads of Delegation of the Movement of Non-Aligned Countries, held in New York on 23 September 1999 (A/54/469-S/1999/1063).

4. At the 19th meeting, on 21 October, the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination made an introductory statement (see A/C.3/54/SR.19).

5. At the same meeting, the Deputy to the Director, New York Office of the United Nations High Commissioner for Human Rights, made a statement on behalf of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance and also made a statement on behalf of the High Commissioner (see A/C.3/54/SR.19).

6. Also at the same meeting, the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination and the Deputy to the Director, New York Office of the High Commissioner, responded to questions raised by the representatives of Finland (on behalf of States Members of the United Nations that are members of the European Union), Liechtenstein, the Islamic Republic of Iran and Austria (see A/C.3/54/SR.19).

II. Consideration of proposals

A. Draft resolution A/C.3/54/L.25

7. At the 24th meeting, on 27 October, the representative of Pakistan, on behalf of Azerbaijan, Bosnia and Herzegovina, Brunei Darussalam, Chile, Costa Rica, Djibouti, Egypt, El Salvador, the Islamic Republic of Iran, Jordan, Kuwait, the Libyan Arab Jamahiriya, Malaysia, Mali, Morocco, Oman, Pakistan, Papua New Guinea, Qatar, Saudi Arabia, Singapore, Thailand, the United Arab Emirates and Viet Nam, introduced a draft resolution entitled "Universal realization of the right of peoples to self-determination" (A/C.3/54/L.25). Subsequently, Bangladesh, Lebanon and Mauritania joined in sponsoring the draft resolution.

8. At the 26th meeting, on 28 October, the Committee adopted draft resolution A/C.3/54/L.25 without a vote (see para. 17, draft resolution I).

B. Draft resolution A/C.3/54/L.27

9. At the 28th meeting, on 1 November, the representative of Cuba, on behalf of Algeria, Angola, China, Costa Rica, Cuba, the Democratic People's Republic of Korea, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Guatemala, India, the Islamic Republic of Iran, Iraq, the Libyan Arab Jamahiriya, the Niger, Nigeria, the Sudan, Swaziland and the United Arab Emirates, introduced a draft resolution entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (A/C.3/54/L.27). Subsequently, Bolivia, Madagascar, Suriname and Togo joined in sponsoring the draft resolution.

10. In introducing the draft resolution, the representative of Cuba orally revised it by adding the words "and also elsewhere" at the end of the sixth preambular paragraph.

11. At the 48th meeting, on 16 November, the Chairman drew attention to a statement of the programme budget implications of draft resolution A/C.3/54/L.27, submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/C.3/54/L.90).

12. At the same meeting, the Committee adopted draft resolution A/C.3/54/L.27, as orally revised, by a recorded vote of 103 to 16, with 32 abstentions (see para.17, draft resolution II). The voting was as follows:[1]

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic Republic of Korea, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Ghana, Guatemala, Guinea, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Belgium, Canada, Denmark, Finland, Georgia, Germany, Hungary, Iceland, Japan, Luxembourg, Micronesia (Federated States of), Netherlands, Norway, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Andorra, Australia, Austria, Croatia, Cyprus, Czech Republic, Estonia, France, Greece, Ireland, Israel, Italy, Kazakhstan, Latvia, Liechtenstein, Lithuania, Malta, Marshall Islands, Monaco, New Zealand, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Sierra Leone, Slovakia, Slovenia, Spain, the former Yugoslav Republic of Macedonia, Ukraine.

13. Before the adoption of the draft resolution, a statement was made by the representative of Finland (on behalf of the States Members of the United Nations that are members of the European Union and Bulgaria, Estonia, Hungary, Latvia, Lithuania and Poland, as well as Iceland and Malta); after the adoption of the draft resolution, a statement was made by the representative of Cuba (see A/C.3/54/SR.48).

C. Draft resolution A/C.3/54/L.29

14. At the 29th meeting, on 2 November, the representative of Egypt, on behalf of Afghanistan, Algeria, Andorra, Austria, Bahrain, Bangladesh, Belgium, Benin, Bosnia and

[1] The delegation of Bolivia subsequently indicated that it had intended to vote in favour.

Herzegovina, Botswana, Brunei Darussalam, Burkina Faso, Chile, the Comoros, Cuba, Cyprus, Denmark, Djibouti, Ecuador, Egypt, Finland, France, Germany, Greece, Guinea, Guyana, Hungary, Indonesia, Ireland, Italy, Japan, Jordan, Kenya, Kuwait, the Lao People's Democratic Republic, Lebanon, Liechtenstein, Luxembourg, Madagascar, Malaysia, Mali, Malta, Mauritania, Monaco, Morocco, Mozambique, Namibia, the Netherlands, the Niger, Nigeria, Oman, Pakistan, Portugal, Qatar, San Marino, Saudi Arabia, Senegal, Sierra Leone, South Africa, Spain, the Sudan, Sweden, Tunisia, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, Viet Nam, Yemen, Zimbabwe and Palestine, introduced a draft resolution entitled "The right of the Palestinian people to self-determination" (A/C.3/54/L.29). Subsequently, Brazil, the Congo, Gabon, India, Liberia, Suriname and Zambia joined in sponsoring the draft resolution.

15. At the 33rd meeting, on 4 November, the Committee adopted draft resolution A/C.3/54/L.29 by a recorded vote of 119 to 2, with 2 abstentions (see para. 17, draft resolution III). The voting was as follows:[2]

In favour:

Afghanistan, Albania, Algeria, Andorra, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bhutan, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cambodia, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Gabon, Germany, Greece, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Malawi, Malaysia, Maldives, Mali, Malta, Mexico, Monaco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Paraguay, Peru, Philippines, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

Uganda, Uruguay.

16. After the adoption of the draft resolution, statements in explanation of vote were made by the representatives of the Syrian Arab Republic, Canada, Australia, Israel and the Russian Federation and statements were made by the representative of Finland (on behalf of the States Members of the United Nations that are members of the European Union) and by the observer for Palestine (see A/C.3/54/SR.33).

[2] The delegations of Burkina Faso, Croatia, Ghana, Kuwait, Latvia, Mongolia, Morocco, Oman, Panama, Poland, San Marino, Senegal and Venezuela subsequently indicated that, had they been present, they would have voted in favour and the delegation of Uganda indicated that it had intended to vote in favour.

III. Recommendations of the Third Committee

17. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,[3] as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of sovereign peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation adopted by the Commission on Human Rights at its thirty-sixth,[4] thirty-seventh,[5] thirty-eighth,[6] thirty-ninth,[7] fortieth,[8] forty-first,[9] forty-second,[10] forty-third,[11] forty-fourth,[12] forty-fifth,[13] forty-sixth,[14] forty-seventh,[15] forty-eighth,[16]

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[3] Resolution 2200 A (XXI), annex.

[4] See *Official Records of the Economic and Social Council, 1980, Supplement No. 3* and corrigendum (E/1980/13 and Corr.1), chap. XXVI, sect. A.

[5] Ibid., *1981, Supplement No. 5* and corrigendum (E/1981/25 and Corr.1), chap. XXVIII, sect. A.

[6] Ibid., *1982, Supplement No. 2* and corrigendum (E/1982/12 and Corr.1), chap. XXVI, sect. A.

[7] Ibid., *1983, Supplement No. 3* and corrigendum (E/1983/13 and Corr.1), chap. XXVII, sect. A.

[8] Ibid., *1984, Supplement No. 4* and corrigendum (E/1984/14 and Corr.1), chap. II, sect. A.

[9] Ibid., *1985, Supplement No. 2* (E/1985/22), chap. II, sect. A.

[10] Ibid., *1986, Supplement No. 2* (E/1986/22), chap. II, sect. A.

[11] Ibid., *1987, Supplement No. 5* and corrigenda (E/1987/18 and Corr.1 and 2), chap. II, sect. A.

[12] Ibid., *1988, Supplement No. 2* and corrigendum (E/1988/12 and Corr.1), chap. II, sect. A.

[13] Ibid,. *1989, Supplement No. 2* (E/1989/20), chap. II, sect. A.

[14] Ibid., *1990, Supplement No. 2* and corrigendum (E/1990/22 and Corr.1), chap. II, sect. A.

[15] Ibid., *1991, Supplement No. 2* (E/1991/22), chap. II, sect. A.

[16] Ibid., *1992, Supplement No. 2* (E/1992/22), chap. II, sect. A.

forty-ninth,[17] fiftieth,[18] fifty-first,[19] fifty-second,[20] fifty-third,[21] fifty-fourth[22] and fifty-fifth[23] sessions,

Reaffirming its resolutions 35/35 B of 14 November 1980, 36/10 of 28 October 1981, 37/42 of 3 December 1982, 38/16 of 22 November 1983, 39/18 of 23 November 1984, 40/24 of 29 November 1985, 41/100 of 4 December 1986, 42/94 of 7 December 1987, 43/105 of 8 December 1988, 44/80 of 8 December 1989, 45/131 of 14 December 1990, 46/88 of 16 December 1991, 47/83 of 16 December 1992, 48/93 of 20 December 1993, 49/148 of 23 December 1994, 50/139 of 21 December 1995, 51/84 of 12 December 1996, 52/113 of 12 December 1997 and 53/134 of 9 December 1998,

Taking note of the report of the Secretary-General on the right of peoples to self-determination,[24]

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. *Deplores* the plight of the millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. *Requests* the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on this question to the General Assembly at its fifty-fifth session under the item entitled "Right of peoples to self-determination".

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[17] Ibid., *1993, Supplement No. 3* and corrigenda (E/1993/23 and Corr.2, 4 and 5), chap. II, sect. A.

[18] Ibid., *1994, Supplement No. 4* and corrigendum (E/1994/24 and Corr.1), chap. II, sect. A.

[19] Ibid., *1995, Supplement No. 3* and corrigenda (E/1995/23 and Corr.1 and 2), chap. II, sect. A.

[20] Ibid., *1996, Supplement No. 3* (E/1996/23), chap. II, sect. A.

[21] Ibid., *1997, Supplement No. 3* (E/1997/23), chap. II, sect. A.

[22] Ibid., *1998, Supplement No. 3* (E/1998/23), chap. II, sect. A.

[23] Ibid., *1999, Supplement No. 3* (E/1999/23), chap. II, sect. A.

[24] A/54/327.

Draft resolution II
Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling its resolution 53/135 of 9 December 1998 and Commission on Human Rights resolution 1999/3 of 23 April 1999,[25]

Recalling also all of its relevant resolutions, in which, *inter alia*, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, and recalling further the relevant resolutions of the Security Council and the Organization of African Unity,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the non-use of force or threat of use of force in international relations and self-determination of peoples,

Reaffirming also that, by virtue of the principle of self-determination, as developed in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[26] all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter,

Recognizing that mercenary activities continue to increase in many parts of the world and take on new forms, permitting mercenaries to operate in a better-organized way, with increased pay, and that their numbers have grown and more persons are prepared to become mercenaries,

Alarmed and concerned about the danger that the activities of mercenaries constitute to peace and security in developing countries, particularly in Africa and in small States and also elsewhere,

Deeply concerned about the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from mercenary aggression and criminal activities,

Convinced that it is necessary for Member States to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly on 4 December 1989,[27] and to develop and maintain international cooperation among States for the prevention, prosecution and punishment of mercenary activities,

Convinced also that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire some semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

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[25] See *Official Records of the Economic and Social Council, 1999, Supplement No. 3* (E/1999/23), chap. II, sect. A.

[26] Resolution 2625 (XXV), annex.

[27] Resolution 44/34, annex.

1. *Takes note* of the report of the Special Rapporteur of the Commission on Human Rights on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination;[28]

2. *Reaffirms* that the recruitment, use, financing and training of mercenaries are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, *inter alia*, encourage the demand for mercenaries on the global market;

4. *Urges* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take the necessary legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to destabilize or overthrow the Government of any State or threaten the territorial integrity and political unity of sovereign States, or to promote secession or to fight the national liberation movements struggling against colonial or other forms of alien domination or occupation;

5. *Calls upon* all States that have not yet done so to consider taking the necessary action to sign or to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;[27]

6. *Welcomes* the cooperation extended by those countries that have invited the Special Rapporteur;

7. *Also welcomes* the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

8. *Invites* States to investigate the possibility of mercenary involvement whenever criminal acts of a terrorist nature occur;

9. *Requests* the Secretary-General to provide the Special Rapporteur with all the necessary assistance, both professional and financial;

10. *Urges* all States to cooperate fully with the Special Rapporteur in the fulfilment of his mandate;

11. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to be programmed in its immediate activities, to publicize the adverse effects of the activities of mercenaries on the right to self-determination and, when requested and where necessary, to render advisory services to States that are affected by the activities of mercenaries;

12. *Requests* the Secretary-General to invite Governments to make proposals towards a clearer legal definition of mercenaries, and, in this regard, requests the United Nations High Commissioner for Human Rights to convene expert meetings, as requested in previous General Assembly resolutions, to study and update the international legislation in force and to propose recommendations for a clearer legal definition of mercenaries that would make for more efficient prevention and punishment of mercenary activities;

13. *Requests* the Special Rapporteur to report his findings on the use of mercenaries to undermine the right of peoples to self-determination, with specific recommendations, to the General Assembly at its fifty-fifth session;

[28] A/54/326.

14. *Decides* to consider at its fifty-fifth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".

Draft resolution III
The right of the Palestinian people to self-determination

The General Assembly,

Aware that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in its Charter,

Recalling the International Covenants on Human Rights,[29] the Universal Declaration of Human Rights,[30] the Declaration on the Granting of Independence to Colonial Countries and Peoples[31] and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[32]

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[33]

Expressing hope for rapid progress in the peace process and the achievement of a final settlement between the Palestinian and Israeli sides by the agreed time of September 2000,

Affirming the right of all States in the region to live in peace within secure and internationally recognized borders,

1. *Reaffirms* the right of the Palestinian people to self-determination, including the option of a State;

2. *Expresses the hope* that the Palestinian people will soon be exercising their right to self-determination, which is not subject to any veto, in the current peace process;

3. *Urges* all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in their quest for self-determination.

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[29] Resolution 2200 (XXI), annex.
[30] Resolution 217 (A) III.
[31] Resolution 1514 (XV).
[32] A/CONF.157/24 (Part I), chap. III.
[33] See resolution 50/6.